

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

**NOTICE AND ORDER TO SHOW CAUSE**

TO ALL CLAIMANTS, KNOWN AND UNKNOWN, WHO CLAIM A RIGHT TO USE THE SURFACE OR UNDERGROUND WATERS OF THE CAÑONES CREEK SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM

AND TO ALL OF THE FOLLOWING WHO CLAIM A RIGHT TO USE SURFACE WATER FOR IRRIGATION PURPOSES IN THE CAÑONES CREEK SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM AND WHOSE NAMES APPEAR BELOW:

**DAGGET DITCH NO. 1**

**PRIORITY 1902**

**Defendants:** E. Truman Caudill, Jane Caudill, Catherine Clemens, James R. Clemens, Kinslow-Herbert Living Trust, John D. Morrow, James H. Renken Irrevocable Trust B, Patty S. Terrell, Sherry D. Wingo, Turner A. Wingo

**DAGGET DITCH NO. 2**

**PRIORITY 1902**

**Defendants:** Dale R. Elliott, Virginia V. Elliott, Patrick S. Hogan, Karam Living Trust, Patty S. Terrell

**DAGGET DITCH NO. 3**

**PRIORITY 1902**

**Defendants:** Duncan Family Ltd. Partnership, Jim Ewbank, Orlinda Naranjo, M. Edwina Wood, Warren T. Wood

**DAGGET DITCH NO. 4**

**PRIORITY 1902**

**Defendants:** Jeb McNeil Binkley Trust, Margaret Burt Binkley Trust, Sargent Mac Gregor Binkley Trust, Jim Ewbank, Orlinda Naranjo

**DAGGET DITCH NO. 5**

**PRIORITY 1902**

**Defendants:** Karam Living Trust

**GENTRY DITCH NO. 1**

**PRIORITY 1902**

**Defendants:** Raleigh K. Gardenhire, Johnna Weaver

**GENTRY DITCH NO. 2**

**PRIORITY 1902**

**Defendants:** Patty S. Terrell

**CAÑONES DITCH NO. 1**

**PRIORITY 1861**

**Defendants:** El Barranco LLC, Gene H. Gurule, Juan F. Gurule, Antonio L. Martinez, Deborah L. Martinez, Eleuterio Martinez Jr., Ida Martinez, Johnny A. Martinez, Jose Antonio Martinez, Jose Onesimo Martinez Jr., Jose Orlando Martinez, Lizette M. Martinez, Lucille E. Martinez, Lynette Martinez, Manuel Martinez, Marcus J. Martinez, Michael A. Martinez, Paul Martinez, Raymond R. Martinez, Robert Martinez, Robert E. Martinez, Gonzalo H. Martinez Family Trust, Genevieve Mestas, Darlene Moya, Clorinda L. Nunez, Ramon R. Nunez, River Bend Ranch, LLC, Sadie Sanchez

**CAÑONES DITCH NO. 2**

**PRIORITY 1861**

**Defendants:** El Barranco LLC, Donald A. Gonzales, Mary Ellen Burns Gonzales, Deborah L. Martinez, Earl James Martinez, Eleuterio Martinez Jr., Lizette M. Martinez, Marcus J. Martinez, Michael A. Martinez, Gonzalo H. Martinez Family Trust, Clorinda L. Nunez, Ramon R. Nunez, River Bend Ranch, LLC

**UNNAMED DITCH NO. 1**

**PRIORITY 1861**

**Defendants:** Mary Ellen Burns Gonzales

**UNNAMED DITCH NO. 2**

**PRIORITY 1861**

**Defendants:** Donald A. Gonzales, Mary Ellen Burns Gonzales

**UNNAMED DITCH NO. 3**

**PRIORITY 1861**

**Defendants:** Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Arta C. Smith, Leo L. Smith

**UNNAMED DITCH NO. 4**

**PRIORITY 1861**

**Defendants:** Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Arta C. Smith, Leo L. Smith

**BARRANCO DITCH**

**PRIORITY 1861**

**Defendants:** Elviria S. Abeyta, Jose M. Abeyta, El Barranco LLC, Benjamin A. Gallegos Jr., Frank A. Gallegos, John J. Gallegos, Mary Gallegos, Antonio Garcia, Cecilia Grimes, Deborah L. Martinez, Earl James Martinez, Eleuterio Martinez Jr., Lizette M. Martinez, Marcus J. Martinez, Michael A. Martinez, Patrick D. Martinez, Rose L. Martinez, Ted D. Martinez, Terry L. Martinez, Gonzalo H. Martinez Family Trust, River Bend Ranch, LLC, Larry E. Rivera, Cleofas Sanchez, Clorinda Sanchez, Jose A. Sanchez, Medardo Sanchez Jr., Miguel R. Sanchez, Sanchez Family Trust, Rita Trujillo, Cleo B. Valdez, Crystal H. Valdez, Roxanne H. Valdez

**SANCHEZ Y CHAVEZ DITCH PRIORITY 1877**

**Defendants:** El Barranco LLC, Ursula Germaine Vicenti Gallegos, Cleofas Sanchez, Miguel R. Sanchez, Sanchez Family Trust

**SARGENT CAÑONES DITCH PRIORITY November 27, 1931**

**Defendants:** Edward L. Binkley III, Jeb McNeil Binkley Trust, Margaret Burt Binkley Trust, Sargent Mac Gregor Binkley, Diamond S Ranch, Rice Living Trust, Charles R. Sanders, Darlene Sanders, Derek Strauch,

**NORTH CAÑONES DITCH**

**PRIORITY December 11, 1923**

**Defendants:** Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Mary Ellen Burns Gonzales, Arta C. Smith, Leo L. Smith

**H.N.D. DITCH**

**PRIORITY December 1, 1922**

**Defendants:** El Barranco LLC, Mundy Ranch Inc.

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority dates for any other community or private ditch in the Cañones Subsection of Section 7 of the Rio Chama Stream System ("Cañones Subsection") as described above. The priority dates for the ditches listed above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described on individual subfile orders filed with the Court. Defendants that have previously agreed to a priority date for their water rights in the Cañones Subsection in subfile orders filed with the Court may not object to the dates of their own water rights, but may file objections to the proposed determination of the priority dates of other water users.

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Cañones Subsection for lands irrigated under pre-1907 ditches as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The ditches in the Cañones Subsection to which the above amounts apply are all of the ditches identified above with the exception of the Sargent Cañones Ditch, North Cañones Ditch and H.N.D. Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Cañones Subsection that are irrigated under final licenses issued by the Office of the State Engineer, as described below:

Sargent Cañones Ditch (OSE No. 1975):

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.

- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

North Cañones Ditch (OSE No. 1609):

- a. The weighted consumptive irrigation requirement (CIR) is 1.11 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.51 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.52 acre-feet per acre per annum.

H.N.D. Ditch (OSE No. 1544):

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.3 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.17 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stock ponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons you may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights for surface water irrigation use in the Cañones Subsection as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Cañones Subsection. Subsequent *inter se*

proceedings in the Cañones Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Cañones Subsection as stated above, you must file your objection with the Court, in person or by mail, **FOR RECEIPT NO LATER THAN December 15, 2011:**

United States District Court Clerk  
333 Lomas Blvd. NW, Suite 270  
Albuquerque, NM 87102

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville  
Special Assistant Attorney General  
Office of State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
(505) 867-7444 phone  
(505) 867-2299 facsimile

or,

John W. Utton  
Attorney for Asociación de Acéquias Norteñas de Rio Arriba  
Sheehan & Sheehan, P.A.  
P.O. Box 271  
Albuquerque, NM 87103-0271  
(505) 699-1445 telephone  
(505) 842-8890 facsimile

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BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE